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CITY & TOWN

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Preserving Massachusetts Farms

With urban areas steadily encroaching on farmland, many local farmers may experience pressure to sell or develop their acreage. In addition, financial hardships created by crop failures, a decline in sales from changing trends in food consumption or increased property tax bills only add to this pressure. These and other factors may make it hard for individual property owners to retain productive agricultural, horticultural land. For many years the Commonwealth has taken an active role in promoting the preservation of farms and open space. In this article we briefly describe three such programs: the first is a municipal program, Chapter 61A, that deals with farm property taxes; the other two are state programs, Agricultural Preservation Restrictions, which limit farm land development and the new Farm Viability Enhancement program, which is geared to improve farm profits.

Chapter 61A

One of the oldest and most widely used farm preservation programs is based on M.G.L. Ch. 61A. Under this program, a farm owner receives preferential local property tax treatment in the municipality where the farm is located. Once the farm is accepted into the program, the board of assessors then values the property based on the range of values published annually by the Farmland Valuation Advisory Commission (FVAC). The property tax is calculated at the commercial rate. The assessed value is based on agricultural or horticultural (A/H) uses rather than fair market value. For example, an acre of land used to grow hay would be valued at what another farmer

would pay for that acre to grow hay. In exchange for giving farmers this property tax benefit, the municipality receives the right to recover some of the tax benefits and a right of first refusal to purchase the property, should that land be sold or used for any purpose other than raising farm products.

To participate, the property must meet eligibility criteria such as having five contiguous acres being used for A/H production for the previous two years. Additionally, it must meet annual gross sales amounts set by the FVAC for the particular crop or animal.

Agricultural Preservation Restrictions

The Commonwealth, through the Department of Food and Agriculture, also offers an Agricultural Preservation Restriction (APR) program. Under this program, the state purchases a permanent deed restriction that prevents development of the farmland. By selling the "development rights," the farmer is able to realize equity from the land without being forced to sell or subdivide the farm. In all other respects, the farmer remains the owner of the land and realizes all the income and benefits of continued farm use.

This program preserves land from development, promotes active agricultural uses and maintains a base of affordable farm land for Massachusetts farmers. The Agricultural Preservation Restriction Act also entitles land to be valued in the reduced fashion prescribed in Chapter 61A, so long as it is being farmed. The Agricultural Lands Preservation Committee oversees APRs

and is chaired by the Commissioner of Food and Agriculture.

Farm Viability Enhancement Program

The Department of Food and Agriculture recently implemented the new Farm Viability Enhancement (FVE) program authorized by the Open Space Bond Bill, Ch.15, Sec. 2 of the Acts of 1996. This program's goal is to encourage the continuation of farming activities by making farms more economically and environmentally viable. Farm owners apply to the program and are selected based on criteria that include acreage, agricultural productivity, location and urban encroachment; the protection of water resources and flood plains; and the preservation of historical, open space or aesthetic amenities. Eligible farms then undergo two separate phases of the program. In the first phase, the farmer works with a planning team to assess the current farm operations and determine ways to increase farm income and environmental

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LEGAL

in Our Opinion

Q: *What is an agricultural preservation restriction?*

A: As defined in M.G.L. Ch.184 Sec.31, an agricultural preservation restriction is a legal limitation upon the uses of a parcel for purposes of retaining the land or water areas predominantly in their agricultural, farming or forest use, and generally forbids or limits construction, excavation or other acts or uses detrimental to retention of the land for agricultural use. The agricultural preservation restriction can be expressed in a deed, a will or other instrument executed by the owner of the land. Such a restriction is in perpetuity unless released pursuant to M.G.L. Ch.184 Sec.32.

Q: *How is land subject to an agricultural preservation restriction assessed?*

A: M.G.L. Ch.132A Sec.11D provides that land subject to an agricultural preservation restriction, while actively devoted to agricultural or horticultural uses as defined in M.G.L. Ch.61A Secs.1-5, will be assessed at values no greater than the agricultural "use" value prescribed for Chapter 61A farmland, not at the property's full and fair market value. The Farmland Valuation Advisory commission annually publishes recommended values to assist local assessors in determining the agricultural "use" value of the various types of farmland.

Q: *When will the assessors begin implementing reduced values for land recently placed under an agricultural preservation restriction?*

A: Under M.G.L. Ch.59 Sec.11, real estate is taxed as of the January 1 assessment date for the ensuing fiscal year, e.g., January 1, 1996 is the assessment date for fiscal year 1997 which begins July 1, 1996 and ends on June 30, 1997. The Supreme Judicial Court has held that "taxes on real estate are assessed annually, not,

however, for any period of time, but rather as of a fixed date." *Sarris v. Assessors of Swampscott*, 2 Mass. App. 841 (1974). The agricultural preservation restriction must be on record at the respective Registry of Deeds as of the January 1 assessment date to be effective for the ensuing fiscal year. For example, if a deed containing a restriction is not recorded until mid-January 1996, the restriction will not affect the parcel's valuation in fiscal year 1997 as it was not on record on the required January 1 assessment date. In this case, the reduced assessment will first be implemented for fiscal year 1998.

Q: *Can a city or town place receipts from the local option room occupancy excise in a revolving fund to be expended, without further appropriation to promote tourism?*

A: No. M.G.L. Ch.64G Sec.3A permits a city or town which accepts its provisions to impose a local excise tax upon the transfer of any room, as a general rule, in a bed and breakfast establishment, hotel, lodging house or motel located within that community. The community must specify in the vote the rate of the local excise which cannot exceed 4 percent. The Commissioner of Revenue collects the excise on behalf of communities. The Treasurer of the Commonwealth then distributes these amounts semi-annually, upon the certification of the Commissioner, to each community that has adopted the hotel-motel excise in proportion to the amount of such sums received from the transfer of occupancy in the respective community. In accordance with M.G.L. Ch.44 Sec.53, these amounts become part of the community's local estimated receipts.

In the absence of special legislation, room occupancy excise revenues cannot be placed in a special purpose revolving fund. As a general revenue of

the community, and once certified by the Bureau of Accounts as free cash, these amounts can be appropriated for any lawful purpose.

Q: *Does a city or town school committee approve the payment of vendor bills and payrolls?*

A: Yes. Although a school superintendent and school principals may sign bills and payrolls as contracting officers under Education Reform, the school committee is still the department head. For vendor bills, the school committee must approve payment by a majority vote of the entire committee in accordance with M.G.L. Ch.41 Sec. 56. With regard to payrolls, however, M.G.L. Ch.41 Sec.41 permits the school committee to designate one of its members to make oath to a payroll for salary or compensation of its members or employees. By its terms, this statute does not permit the school committee to designate the superintendent.

It should be noted that the approval procedure is different for regional schools. M.G.L. Ch.71 Sec.16A permits a regional school district committee to establish a subcommittee of no less than three members for signing payroll and accounts payable warrants. The statute provides, however, that the subcommittee must make a record of its actions available at the next meeting of the regional school district committee.

Q: *Can a community lawfully deficit spend for snow and ice removal?*

A: Under the provisions of M.G.L. Ch.44 Sec.31D, a community may spend in excess of its appropriation for snow and ice removal if the appropriation for that fiscal year (e.g., FY97) is at least equal to that for the preceding fiscal year (i.e., FY96). The Legislature thereby intended to prevent the intentional underfunding of a budgetary item

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FOCUS

on Municipal Finance

Massachusetts' School Choice and Charter School Programs

The 1990s have brought significant changes to public education in Massachusetts. Many of these changes resulted from the passage of the Education Reform Act of 1993 which laid out a plan to increase education spending per pupil and to equalize education spending statewide. In addition to many new education reform initiatives, this act further defined and expanded the Massachusetts school choice program that had been created in 1991. The Education Reform Act also authorized the creation of up to 25 charter schools within the state, the first of which opened in the fall of 1995. In this article, we explain how the school choice and charter school programs work, describe their funding mechanisms, and list their estimated pupil participation and tuition costs for FY97.

The school choice and charter school programs have a number of similarities. Both programs have districts defined as sending districts because they have pupils attending schools outside their district of residence. Sending districts are then assessed the cost of sending the pupils to a participating school choice district or a charter school. Receiving districts, those accepting choice students or charter students, receive the tuition payments from the sending districts. Tuition assessments are deducted from the sending district's local aid as part of the quarterly distribution process. These tuition assessments and payments are made in the last three quarters of the fiscal year: December, March and June. The December assessments and payments are based

on estimated enrollment data submitted to the Department of Education (DOE) on the October 1 enrollment report. Tuition assessments and payments are adjusted in March and/or June using more current data.

The School Choice Program

The school choice program, created in 1991, gives parents the flexibility to choose to send their children to a school outside their community. Municipal and regional districts however, have the option of not accepting school choice pupils. To exercise this option, a school committee must hold a public hearing and vote annually on a resolution choosing not to participate in the school choice program, otherwise they must accept students if space is available.

As indicated in the preceding section, both municipal and regional school districts can accept non-resident students. These districts have discretion in determining the number and grade level of school choice children they accept. If the number of school choice applicants exceeds the number of available seats, students must be chosen by lottery or random selection. School choice tuition payments come from the sending districts' local aid distributions. In some cases, a sending district may receive aid depending on the district's status in relation to its spending target, i.e. its foundation budget, as mandated by the Education Reform Act of 1993. In FY97, there were increases in Chapter 70 for below foundation districts that saw increases in school choice charges between FY95-FY96. Through FY96, eligible sending districts received state reimbursement for a portion of the local aid lost through school choice tuition payments. These reimbursements for

school choice tuition payments were not funded in the FY97 state budget.

School choice tuition assessments are calculated by the DOE and are limited by statute to 75 percent of the receiving district's per pupil cost by grade and program, with a cap of \$5000 per student. However, for special education enrollments, the full per pupil cost is allowed. Estimates of these assessments are calculated for the December and March distributions; final assessments are calculated for the June distribution. In *Table 1*, we list the 168 municipalities and 61 regional school districts that are participating in the school choice program in FY97. This table shows the participating districts, the number of pupils received and the estimated tuition they are receiving from other districts, the number of students being sent out of the district plus the estimated tuition total that sending districts are being assessed in FY97.

As is indicated by the tuition assessment data in *Figure 1*, participation in the school choice program has risen dramatically in recent years. In FY94, the total tuition assessment was \$17.2 million, it rose 30 percent to \$22.4 million in FY95. In FY96, school choice tuition rose another 16 percent and in FY97 the estimated school choice tuition assessment of \$28.1 million is 7.8 percent higher than the previous year.

Charter Schools

During the 1996-1997 school year, a total of 22 charter schools are operating in Massachusetts. These charter schools are receiving students from 112 municipalities and 21 regional school districts. Each charter school is a publicly funded individual legal entity, independent of the school district in which it is located. These schools

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Table 1: FY97 School Choice Estimates

Municipality	Receiving FTE	Receiving Tuition	Sending FTE	Sending Tuition	Municipality	Receiving FTE	Receiving Tuition	Sending FTE	Sending Tuition	Municipality	Receiving FTE	Receiving Tuition	Sending FTE	Sending Tuition
Abington	0.0	0	1.0	4,139	Lawrence	0.0	0	92.0	349,869	Southbridge	0.0	0	2.0	5,964
Acton	26.0	90,819	5.0	37,794	Lee	84.1	339,297	42.1	213,643	Springfield	15.0	58,872	231.2	987,364
Agawam	12.0	51,123	27.0	92,429	Leicester	0.0	0	1.0	4,064	Stoneham	0.0	0	1.0	13,038
Amesbury	68.0	262,798	158.4	606,122	Lenox	75.0	358,872	24.0	91,570	Stoughton	0.0	0	3.0	11,284
Amherst	0.0	0	1.0	3,339	Leominster	62.0	254,164	211.1	923,244	Sutton	45.0	142,306	25.0	89,531
Andover	0.0	0	5.0	21,414	Lexington	0.0	0	2.0	8,381	Swampscott	0.0	0	4.2	18,351
Arlington	0.0	0	1.0	3,969	Lincoln	0.0	0	1.0	9,642	Taunton	41.0	153,948	4.0	27,094
Ashland	48.2	207,616	24.0	83,257	Littleton	89.0	461,089	43.0	195,259	Tewksbury	0.0	0	24.0	130,053
Auburn	0.0	0	0.3	666	Longmeadow	98.0	419,023	2.0	8,873	Topsfield	0.0	0	2.0	6,286
Avon	204.7	791,432	0.0	0	Lowell	0.0	0	119.8	449,666	Truro	0.0	0	8.0	40,000
Ayer	107.5	574,051	95.2	403,602	Ludlow	0.0	0	15.0	90,100	Tyngsborough	38.6	120,587	16.0	58,458
Barnstable	0.0	0	9.0	32,239	Lunenburg	124.0	346,542	53.0	216,172	Tyringham	0.0	0	5.0	25,000
Becket	0.0	0	2.0	10,000	Lynn	0.0	0	129.1	631,609	Uxbridge	132.0	595,720	29.2	89,264
Bedford	0.0	0	2.2	17,706	Malden	0.0	0	3.0	12,173	Wakefield	0.0	0	1.0	3,884
Belchertown	0.0	0	12.0	43,577	Manchester	147.0	751,714	1.0	6,745	Wales	1.0	1,487	0.0	0
Bellingham	0.0	0	45.0	171,671	Marblehead	85.3	447,323	1.0	4,064	Waltham	0.0	0	65.0	387,361
Berkley	0.0	0	9.0	38,313	Marlborough	0.0	0	72.8	341,261	Ware	9.2	45,865	63.0	199,869
Berlin	25.0	87,749	7.1	33,484	Mashpee	0.0	0	1.0	2,934	Wareham	11.0	42,749	0.0	0
Beverly	49.0	271,196	74.0	350,898	Maynard	34.0	201,179	103.0	451,418	Watertown	0.0	0	1.0	4,418
Billerica	0.0	0	7.0	36,486	Medfield	0.0	0	3.0	11,485	Wayland	0.0	0	3.0	12,732
Boston	0.0	0	27.3	140,312	Medford	0.0	0	70.0	404,819	Webster	0.0	0	8.0	26,673
Bourne	0.0	0	5.0	20,762	Medway	30.2	116,088	39.1	145,869	West Boylston	84.0	331,535	3.0	12,815
Boxborough	0.0	0	6.0	18,575	Melrose	0.0	0	2.0	7,520	West Springfield	0.0	0	6.1	18,074
Boxford	0.0	0	1.3	3,773	Methuen	0.0	0	14.9	66,987	Westborough	0.0	0	5.3	20,171
Braintree	0.0	0	1.0	3,696	Middleborough	5.0	30,053	2.0	9,367	Westfield	13.1	45,349	63.0	234,924
Brewster	0.0	0	6.0	57,768	Millford	78.3	324,171	128.6	518,618	Westford	84.0	304,337	28.1	126,785
Brockton	0.0	0	177.1	686,064	Millbury	0.0	0	10.0	27,784	Westhampton	0.0	0	1.0	3,358
Cambridge	0.0	0	7.0	38,321	Millis	29.0	149,573	45.0	164,602	Weymouth	0.0	0	2.0	7,392
Carlisle	0.0	0	3.0	9,546	Milton	0.0	0	1.0	3,794	Williamsburg	29.0	112,997	0.0	0
Chatham	43.0	322,303	1.0	4,064	Monson	0.0	0	1.0	1,487	Williamstown	23.0	76,790	0.0	0
Chelmsford	6.0	21,216	19.9	76,234	Natick	0.0	0	5.0	22,545	Winchendon	14.0	53,224	27.2	113,157
Chicopee	0.0	0	18.1	76,295	Needham	0.0	0	2.0	3,972	Woburn	0.0	0	4.0	17,170
Clarksburg	0.0	0	3.0	13,949	Newburyport	226.3	999,107	54.1	191,567	Worcester	0.0	0	133.1	590,247
Clinton	48.1	239,847	97.2	454,121	Newton	0.0	0	3.0	13,234	Wrentham	0.0	0	2.0	6,485
Concord	0.0	0	2.0	9,816	Norfolk	0.0	0	6.0	43,437	Municipal Total	3771.1	15,702,699	4744.8	20,340,537
Danvers	10.1	43,124	15.0	65,483	North Adams	0.0	0	55.1	260,022	Regional School Districts				
Douglas	22.1	73,284	108.0	426,405	North Andover	0.0	0	6.0	23,440	Acton Boxborough	290.0	1,291,465	17.0	93,204
Dracut	35.0	141,308	25.5	91,092	North Brookfield	12.0	46,041	5.0	16,844	Adams Cheshire	32.1	162,161	22.0	93,629
East Longmeadow	33.0	115,675	10.0	40,631	North Reading	0.0	0	3.1	11,963	Ashburnham Westminister	21.0	93,382	29.0	99,340
Eastham	0.0	0	2.0	9,808	Northampton	0.0	0	3.0	10,622	Assabet Valley	0.0	0	1.0	5,000
Easthampton	0.0	0	3.0	9,815	Northborough	0.0	0	2.0	8,011	Athol Royalston	0.0	0	32.0	138,150
Essex	8.0	27,428	31.0	173,873	Northbridge	104.0	333,636	103.1	441,068	Berkshire Hills	118.0	589,442	74.0	367,539
Everett	0.0	0	17.0	93,719	Norwood	0.0	0	1.0	4,373	Berlin Boylston	80.1	488,550	24.0	111,569
Fall River	0.0	0	4.0	11,472	Oxford	0.0	0	8.0	30,910	Blackstone Millville	0.0	0	25.0	107,971
Falmouth	0.0	0	1.0	2,777	Palmer	0.0	0	5.0	20,109	Bridgewater Raynham	0.0	0	13.0	46,578
Fitchburg	90.0	308,300	202.0	737,606	Paxton	0.0	0	1.0	5,000	Central Berkshire	75.2	303,281	84.0	373,549
Framingham	0.0	0	54.2	233,519	Peabody	0.0	0	41.1	260,990	Chesterfield Goshen	0.0	0	43.0	163,975
Franklin	0.0	0	19.2	63,366	Petersham	23.0	115,586	21.0	65,268	Concord Carlisle	0.0	0	5.0	21,236
Gardner	69.0	219,972	22.0	75,769	Pittsfield	65.2	270,897	117.4	523,197	Dennis Yarmouth	11.0	39,431	7.0	58,295
Georgetown	62.3	280,432	44.0	174,424	Plymouth	0.0	0	1.0	2,748	Dighton Rehoboth	0.0	0	6.0	23,526
Gloucester	16.0	61,664	117.0	568,600	Provincetown	10.2	70,108	3.0	23,705	Dover Sherborn	0.0	0	1.0	13,575
Grafton	0.0	0	12.0	33,717	Randolph	0.0	0	14.0	48,888	Dudley Chariton	0.0	0	1.0	3,984
Granby	66.1	247,943	2.0	7,420	Rochester	0.0	0	1.0	2,934	Farmington River	2.0	7,249	14.0	55,005
Granville	0.0	0	2.0	6,539	Rockport	4.0	15,782	31.0	143,221	Franklin County	0.0	0	4.0	24,382
Greenfield	0.0	0	7.0	34,473	Rowe	22.0	82,333	0.0	0	Freetown Lakeville	0.0	0	5.0	20,249
Hancock	7.0	26,274	6.0	22,056	Salem	0.0	0	66.0	352,206	Gateway	11.0	39,514	45.0	168,147
Harvard	157.3	693,017	17.0	74,126	Sandwich	0.0	0	2.0	7,451	Gill Montague	0.0	0	1.0	3,188
Harwich	0.0	0	21.0	144,970	Saugus	0.0	0	10.0	44,140	Greater Lawrence	5.0	25,000	186.1	1,015,546
Haverhill	51.0	167,075	140.1	532,341	Savoy	0.0	0	7.0	23,650	Greater Lowell	3.0	15,000	42.0	230,500
Holbrook	0.0	0	5.0	18,970	Sherborn	0.0	0	3.0	29,661	Groton Dunstable	82.0	342,495	51.0	225,315
Holliston	282.5	1,094,630	10.0	44,975	Shirley	39.0	129,660	66.1	332,392	Hamilton Wenham	144.1	701,748	10.0	52,674
Holyoke	0.0	0	9.0	31,104	Shrewsbury	0.0	0	4.0	17,371	Hampden Wilbraham	80.0	340,271	1.0	5,000
Hopedale	62.0	229,943	44.0	168,712	Somerset	0.0	0	1.0	3,219	Hampshire	0.0	0	3.0	11,343
Hopkinton	30.0	121,560	71.0	259,140	Somerville	0.0	0	9.0	51,669	Hawlemont	0.0	0	3.0	7,512
Hudson	76.6	318,775	97.0	441,823	South Hadley	0.0	0	24.0	87,065	King Philip	0.0	0	6.2	23,659
Ipswich	57.1	224,301	42.0	181,876	Southampton	0.0	0	2.0	6,524					
Lanesborough	12.0	39,840	3.0	10,042	Southborough	0.0	0	3.0	9,826					

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Table 2: FY97 Charter School Estimates

Municipality	Pupils (FTE)	Annual Tuition	Foundation Status	Reimb Rate	Total Reimb	Municipality	Pupils (FTE)	Annual Tuition	Foundation Status	Reimb Rate	Total Reimb
Abington	1.0	5,133	Below	0%	0	Marblehead	110.0	640,640	Above	40%	256,256
Amherst	1.0	6,879	Above	40%	2,752	Marlborough	1.0	6,344	Below	0%	0
Andover	2.0	12,496	Below	0%	0	Marshfield	18.0	96,552	Below	0%	0
Arlington	5.0	34,052	Above	50%	17,026	Maynard	1.0	6,319	Below	0%	0
Attleboro	3.0	15,021	Below	0%	0	Medford	63.0	393,419	Below	0%	0
Ayer	5.0	36,200	Above	40%	14,480	Medway	6.0	32,802	Below	0%	0
Barnstable	3.0	15,621	Below	0%	0	Melrose	2.0	11,058	Above	50%	5,529
Bedford	2.0	14,480	Above	40%	5,792	Methuen	7.0	37,982	Below	0%	0
Bellingham	4.0	19,528	Below	0%	0	Milford	2.0	12,028	Below	0%	0
Belmont	1.0	6,706	Above	50%	3,353	Millis	1.0	6,204	Below	0%	0
Berkley	1.0	4,779	Below	0%	0	Monson	1.0	5,236	Below	0%	0
Beverly	1.0	5,024	Below	0%	0	New Bedford	1.0	5,674	Below	0%	0
Billerica	4.0	22,329	Below	0%	0	Newton	1.0	6,831	Above	50%	3,416
Boston	1311.1	9,682,129	Below	0%	0	Norfolk	1.0	4,738	Below	0%	0
Braintree	3.0	16,527	Below	0%	0	North Attleboro	2.0	8,702	Below	0%	0
Brockton	3.0	19,035	Below	0%	0	Northampton	31.3	179,772	Below	0%	0
Brookline	1.0	6,994	Above	40%	2,798	Northboro	1.0	5,152	Below	0%	0
Cambridge	207.4	1,633,589	Above	50%	816,795	Norwell	3.0	16,689	Above	40%	6,676
Chatham	5.0	34,465	Above	40%	13,786	Oak Bluffs	3.0	23,136	Above	50%	11,568
Chelmsford	148.2	788,532	Below	0%	0	Peabody	1.0	6,076	Below	0%	0
Chelsea	5.0	31,735	Below	0%	0	Plainville	3.0	13,587	Below	0%	0
Chicopee	1.0	5,769	Below	0%	0	Plymouth	1.0	6,073	Below	0%	0
Cohasset	14.0	76,384	Above	40%	30,554	Plympton	3.0	15,000	Below	0%	0
Concord	1.0	7,240	Above	40%	2,896	Provincetown	4.0	27,572	Above	40%	11,029
Conway	2.0	11,128	Below	0%	0	Quincy	7.0	43,642	Below	0%	0
Danvers	1.0	5,824	Above	40%	2,330	Randolph	1.0	5,315	Below	0%	0
Dartmouth	2.0	10,702	Below	0%	0	Revere	10.0	56,439	Below	0%	0
Dracut	2.0	10,202	Below	0%	0	Rockland	11.0	62,810	Below	0%	0
Duxbury	2.0	11,468	Above	40%	4,587	Rowe	1.0	0	Above	50%	0
Easthampton	4.0	21,032	Below	0%	0	Salem	19.0	114,209	Below	0%	0
Edgartown	11.0	84,832	Above	50%	42,416	Saugus	1.0	6,054	Above	50%	3,027
Everett	5.0	26,305	Below	0%	0	Scituate	27.1	148,295	Below	0%	0
Fall River	314.0	1,899,386	Below	0%	0	Shirley	2.0	10,848	Below	0%	0
Fitchburg	3.0	17,700	Below	0%	0	Somerset	2.0	12,346	Above	50%	5,568
Franklin	169.3	973,542	Below	0%	0	Somerville	316.1	2,159,780	Below	0%	0
Freetown	2.0	11,244	Below	0%	0	South Hadley	3.0	16,056	Below	0%	0
Granby	1.0	5,126	Below	0%	0	Springfield	670.7	4,250,603	Below	0%	0
Greenfield	3.0	16,545	Below	0%	0	Swampscott	6.0	34,944	Above	40%	13,978
Hadley	7.0	46,082	Above	40%	22,476	Swansea	4.0	22,752	Below	0%	0
Hanover	4.0	22,058	Below	0%	0	Taunton	6.0	31,470	Below	0%	0
Harvard	24.0	145,824	Above	40%	58,330	Tewksbury	5.0	21,010	Below	0%	0
Harwich	17.0	115,600	Below	0%	0	Tisbury	18.0	138,816	Above	50%	69,408
Hatfield	2.0	10,788	Below	0%	0	Truro	6.0	41,358	Above	40%	16,543
Hingham	13.0	71,721	Below	0%	0	Tyngsborough	1.0	5,041	Below	0%	0
Holliston	2.0	9,942	Below	0%	0	Wakefield	1.0	5,824	Above	40%	2,330
Holyoke	3.0	19,737	Below	0%	0	Watertown	1.0	6,811	Above	50%	3,406
Hopedale	2.0	9,882	Below	0%	0	Westborough	1.0	7,240	Above	40%	2,896
Hull	171.3	957,380	Below	0%	0	Westfield	1.0	5,842	Below	0%	0
Kingston	1.0	4,854	Below	0%	0	Westford	1.0	5,262	Below	0%	0
Lawrence	362.1	2,242,419	Below	0%	0	Westport	2.0	10,402	Below	0%	0
Leominster	2.0	10,772	Below	0%	0	Weymouth	45.0	256,905	Below	0%	0
Lexington	1.0	5,319	Above	50%	2,660	Williamsburg	9.1	52,641	Above	40%	21,056
Littleton	21.0	128,184	Above	40%	51,274	Woburn	1.0	5,895	Below	0%	0
Lowell	97.0	623,587	Below	0%	0	Worcester	516.0	3,058,332	Below	0%	0
Lunenburg	11.0	55,847	Below	0%	0	Wrentham	4.0	20,032	Below	0%	0
Lynn	35.0	195,020	Below	0%	0	Municipal Total	5012.7	32,556,770			1,526,987
Malden	17.0	91,511	Below	0%	0						

Table 1: FY97 School Choice Estimates (cont'd.)

Regional School Districts	Receiving FTE	Receiving Tuition	Sending FTE	Sending Tuition
Lincoln Sudbury	0.0	0	2.0	9,418
Masconomet	84.1	336,645	4.0	29,148
Mendon Upton	72.3	281,040	64.0	269,653
Minuteman	286.2	1,677,693	4.0	22,500
Mohawk Trail	0.0	0	16.0	51,379
Montachusett	25.1	139,119	15.0	81,130
Mount Greylock	43.2	229,876	9.0	46,202
Narragansett	0.0	0	24.0	86,416
Nashoba	183.0	881,088	83.1	350,843
Nashoba Valley	63.0	342,250	5.0	25,000
Nauset	6.0	35,513	10.2	84,991
New Salem Wendell	0.0	0	3.0	18,880
North Middlesex	26.0	105,927	81.3	333,961
North Shore	50.0	330,405	3.0	16,193
Northboro Southboro	0.0	0	2.0	8,488
Northeast Metropolitan	45.0	236,626	132.2	786,196
Old Rochester	0.0	0	1.0	4,457
Pathfinder	33.0	211,841	0.0	0
Pentucket	167.0	579,839	39.0	165,528
Quabbin	118.0	365,858	29.2	118,076
Ralph C Mahar	0.0	0	21.0	62,419
Shawshen Valley	0.0	0	6.0	33,473
South Middlesex	0.0	0	1.0	7,223
Southern Berkshire	79.0	389,145	78.0	375,653
Southwick Tolland	108.0	388,900	6.0	20,835
Spencer East Brookfield	0.0	0	6.0	21,117
Tantasqua	0.0	0	6.0	32,006
Tri County	0.0	0	1.0	5,000
Triton	108.0	384,437	195.9	834,161
Wachusett	0.0	0	54.0	242,203
Warren West Brookfield	0.0	0	5.0	21,991
Whittier	188.1	1,026,239	3.0	15,412
RSD Total	2639.4	12,381,430	1665.1	7,743,592

School Choice and Charter School Programs

➔ *continued from page three*

are open to all students if space is available. A lottery is held when the number of applicants exceeds the number of available spaces. Charter schools can be restricted to certain grade levels and can provide specialized education such as mathematics, science or the arts. These schools may also set reasonable academic standards as a condition of eligibility.

The charter school tuition assessment process is similar to the school choice tuition assessment process. A charter school, acting as the receiving district, receives tuition payments from sending districts. The charter school tuition assessment calculation varies depending on the pupil's home district's status in relation to its foundation budget spending target. When a charter school pupil lives in a district with a foundation spending gap, the tuition assessment is equal to the average cost per student in that district. If the charter school pupil lives in a district

that does not have a foundation gap, the tuition assessment is equal to the average cost per student in that district or the average cost per student in the district where the charter school is located, whichever is less.

The FY97 charter school pupil and tuition estimates are listed in *Table 2*. This table shows the number of full-time equivalent (FTE) pupils attending charter schools, the estimated annual tuition, foundation status, reimbursement rate and estimated reimbursement. Unlike school choice, above foundation districts sending pupils to charter schools are reimbursed a portion of their estimated tuition assessment. Above foundation districts' reimbursement rates are as follows: 50 percent in the first year of the charter school's operation, 40 percent in the second year and 30 percent in the third year. Below foundation communities are reimbursed as part of their Chapter 70 calculations.

Impact on Municipal Budgets

The budgetary impact of these two programs varies from district to district. Since sending communities are assessed tuition payments through a deduction from their quarterly local aid distribution, the resulting loss in aid may cause a revenue deficit that the community would have to raise the following year. To avoid this problem, local officials should include estimates of the upcoming year's assessments when they are developing their budgets. Officials should also be aware that these assessments can be used to meet their net school spending requirement.

For those districts receiving choice or charter students, officials should note that Ch.76 Sec.12B states that tuition payments are to be deposited by a community's treasurer in a separate account and may be expended by the school committee without further appropriation. ■

Written by Kay M. Upham

Figure 1

	School Choice			Charter Schools		
	Municipal Tuition Assessment	Regional Tuition Assessment	Total Tuition Assessment	Municipal Tuition Assessment	Regional Tuition Assessment	Total Tuition Assessment
FY93	12,087,120		12,087,120			
FY94	14,008,022	3,201,537	17,209,559			
FY95	16,675,412	5,749,028	22,424,440			
FY96	19,058,409	6,995,677	26,054,086	14,777,310	1,133,390	15,910,700
FY97*	20,340,537	7,743,592	28,084,129	32,556,770	2,178,941	34,735,711

*The FY97 data are estimates; final data will be available for the June FY97 quarterly distribution.

DLS UPDATE

Ludlow Receives Award

The Massachusetts Municipal Association (MMA) awarded its 1996 Kenneth E. Pickard Municipal Innovation first prize award to the town of Ludlow for its Local Government Partnership program. Ludlow officials received their award at the MMA's Annual Meeting on January 18, 1997.

The collaborative partnership program joins the school department, Division of Local Services (DLS) staff, town officials and high school seniors in an educational experience in the classroom and town hall. Students learn about the functions and responsibilities

of their local government. Ludlow was recognized because its program demonstrated "dedication, commitment and ability to increase the effectiveness of local government by successfully implementing a unique and creative program."

The program is growing. In addition to Ludlow, the partnership is underway at the Shrewsbury and Palmer High Schools. This is an exciting program and DLS is proud to have shared in its development and growth. For further information please contact Dennis Rindone at (413) 784-1000. ■

Preserving Massachusetts Farms

→ continued from page one

resource conservation. The planning team consists of experts in areas such as agriculture, marketing, finance, management and environmental sciences.

During the second phase, the farm owner chooses one of two funding options implementing designated portions of the FVE plan and dedicates the land to future farm use. In exchange for up to \$20,000, the farmer grants a temporary five-year agricultural use covenant to the Commonwealth and commits to implementing specific components of the plan. In exchange for up to \$40,000, the covenant to the state is 10 years as well as the implementation of certain parts of the plan. The implementation plan will include ways to increase farm income through such things as improved management practices, diversification, direct marketing, agri-tourism, etc. A farmer accepting either option is required to use the grant funds to put the plan into action.

The FVE program is a cost-effective means of distributing the \$5 million in

state aid appropriated for FY97 to encourage farm preservation. By offering managerial resources, expertise and direct grants of \$20,000 or \$40,000, many farmers will receive the assistance necessary to keep their property as agricultural land. Unlike Chapter 61A and the APR, the FVE program does not directly affect the land valuation or tax status of the farms in the program. However, the Chapter 61A preferential tax classification may be used concurrently with the Farm Viability Enhancement program.

Overall, it is clear that each of these farm preservation programs is designed to offer individual farm owners options for preserving their property as farmland. Local officials who want to learn more about Chapter 61A should contact the Division of Local Services at (617) 626-2300. Questions about the Agricultural Preservation Restriction Program and the Farm Viability Enhancement program should be directed to the Department of Food and Agriculture at (617) 727-3018. ■

Legal

→ continued from page two

which may be lawfully overexpended. In our view, a community must appropriate in fiscal year 1997's budget at least an amount equivalent to that appropriated *directly* to the fiscal year 1996 snow and ice account *excluding* additional transfers from free cash, the stabilization fund or the reserve fund.

By a recent amendment to the statute, every city or town must report annually to the Division of Local Services, no later than September 15, the total amounts appropriated and spent (including funding or reimbursement from the Commonwealth) for snow and ice removal for the fiscal year ending on the preceding June 30.

Q: Are household furnishings in a vacation home subject to local personal property taxes?

A: Yes. M.G.L. Ch.59 Sec.2 provides that all real estate and personal property situated within the Commonwealth is subject to local taxation unless otherwise exempt. M.G.L. Ch.59 Sec.5 Cl.20 exempts from taxation household furnishings and effects at an individual's legal domicile. A summer resident in the town of Hull challenged, on Constitutional grounds, the assessment of a local personal property tax on the contents of his summer home. The Supreme Judicial Court ruled that the taxes were proportional and reasonable. *Weinstock v. Hull*, 367 Mass. 66 (1975). The taxpayer sought review in the United States Supreme Court but the case was dismissed. Thus, this local personal property tax is Constitutional.

Compiled by James Crowley

Municipal Fiscal Calendar

March 1

DOE: *Notify Communities of Estimated Net School Spending Requirement for the Next Year*

March 1

Personal Property Owner: *Submit Form or List*

This is a listing of all personal property filed by the owner with the Assessors each year for the purpose of determining taxes in the next fiscal year.

March 1

Non-Profit Organization: *Final Filing Date for 3-ABC Forms*

These must be filed on or before March 1 (this deadline may be extended by the Assessors). In no event should the forms be filed later than 30 days after the tax bill is mailed.

March 31

State Treasurer: *Notification of Quarterly Local Aid Payment on or Before March 31*

Automated WR-1s

Municipal accountants and auditors, and treasurers of regional school districts and special taxing districts will soon receive a diskette in the mail from the Massachusetts Department of Revenue (DOR). The Employer's Quarterly Report of Wages Paid (WR-1) has been automated to ease reporting requirements. Using this new program should save employers time and money that was previously attributable to manual filing.

DOR, in its quest to ease the burden of small businesses and local governments, has made important changes in acceptable filing methods. The automated WR-1 is one of the results of these efforts. DOR encourages any employer interested in participating in this diskette program to contact Donna Zacchini, WR-1 Administrator, Automated Processing Bureau at (617) 887-5030 for a complimentary software package. ■

Data Bank Highlight

Birth and Enrollment Data

Enrollment and birth data can assist communities in projecting future year's education spending needs and long term planning for capital projects such as building new schools. The Data Bank can provide individual communities with a standard report that shows the number of births and resident public school children for each year going back to 1980. Birth data is from the Massachusetts Department of Public Health. Enrollment data, derived from the Massachusetts Department of Education's "School Attending Children" reports, are in K-6, 7-8, 9-12 and K-12 clusters.

To obtain Municipal Data Bank information contact: John Sanguinet at (617) 626-2355 for printed reports and data files; Burt Lewis at (617) 626-2358 for the On-Line Access System; or use the World Wide Web address below.

City & Town



City & Town is published 11 times a year by the Massachusetts Department of Revenue's Division of Local Services (DLS) and is designed to address matters of interest to local officials. DLS offers numerous publications on municipal law and finance, available by calling (617) 626-2300, or through the DLS World Wide Web site at <http://www.state.ma.us/dls> or by writing to PO Box 9655, Boston, MA 02114-9655.

Marilyn H. Browne, Editor

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